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August 17, 2006

The Hon. Kent A. Jordan
J. Caleb Boggs Federal Building
844 N. King Street
Room 6325
Lockbox 10
Wilmington, DE 19801

**RE: *In re Tricor Direct Purchaser Antitrust Litig.*,
C.A. Nos. 05-340 KAJ**

Dear Judge Jordan:

I am writing on behalf of Plaintiffs¹ in accordance with paragraph 6(h) of the Court's Scheduling Order dated October 27, 2005, regarding discovery disputes. Plaintiffs regret the need to bring this dispute before the Court, but in spite of Plaintiffs' efforts, Defendant Abbott Laboratories ("Abbott") has failed to reasonably and timely present proposed deposition dates for Abbott-related witnesses. Plaintiffs believe that without Court intervention, the scheduled fact-discovery cutoff date of October 31, 2006— a date Plaintiffs believe can and should be met by all parties — will be unduly threatened.²

For instance, the Plaintiffs served various notices of depositions for some Abbott-related witnesses, including Jodi Devlin and Douglas Sporn, on May 16, 2006. Despite repeated follow-up requests, Abbott did not provide a deposition date for Mr. Sporn until August 14, nearly three months after the initial notice was sent by Plaintiffs. The Plaintiffs thereafter received a proposed date for Ms. Devlin on August 16, but only after apprising Defendant Abbott of their intent to pursue this application and that a close hearing date had been offered by the Court. Further, the Plaintiffs sent another set of deposition notices for eight Abbott-related witnesses on July 28, 2006. To date, and again despite Plaintiffs' requests, Abbott has not offered proposed

¹ This letter is submitted jointly by all Plaintiffs: Coordinated Direct Purchaser Plaintiffs, Direct Purchaser Plaintiff Opt-outs, Impax Laboratories, Inc., Teva Pharmaceuticals, Pacificare, and Indirect Party Plaintiffs.

² The Plaintiffs attempted to apprise the Court of this situation in the recently-submitted joint quarterly update report since one of the purposes of the report is to cover "the status of discovery and any motions or other procedural matters that are pending or anticipated." Scheduling Order at ¶ 9. Counsel for Defendant Abbott, however, refused to agree to any draft of the joint report that made any mention of this dispute, and explicitly refused to discuss the purpose of the quarterly reports (e.g., "I'm not going to get into a debate about it other than to say that we are not going to sign on to it."). See Exhibit "A" hereto, August 15, 2006 email from Chad Peterman, Esq. to Barry Taus, Esq., *et al.*

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dates for seven of those witnesses and only proposed a date for the eighth after this application and hearing were in sight.

This Court has set a fact-discovery cutoff date of October 31, 2006, and Plaintiffs stand ready to meet that date. Defendant Abbott's continuing delay in proposing deposition dates, however, is threatening the Plaintiffs' ability to meet this deadline.

In light of the above and foregoing, it is respectfully requested that the Court instruct Abbott to promptly provide deposition dates for those witnesses who were the subject of the deposition notices of July 28, 2006. The Plaintiffs also respectfully request that the Court set some reasonable time limit (*e.g.*, seven days) within which parties must provide deposition dates once deposition notices are served.

Thank you for your consideration of this matter.

Respectfully submitted,



Jeffrey S. Goddess
(Del. Bar No. 630)
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JSG/cmw

cc: All counsel of record on attached service list

EXHIBIT A

From: Peterman, Chad J. (x2877) [cjpeterman@pbwt.com]

Sent: Tuesday, August 15, 2006 11:33 AM

To: Barry Taus; Anne Fornecker; Casey Murphy; David Nalven; Stuart Des Roches; Adelaida Ferchmin; Lukens, Joseph T.; Scott Perwin; Lauren Ravkind; pcafferty@millerfaucher.com; John Turner; Christopher McDonald; Ted Lieverman; Michael Gottsch; Ken Zylstra; Matthew Hendrickson

Subject: RE: Tricor

Barry - I'm not going to get into a debate about it other than to say that we are not going to sign on to it. If you want include a paragraph 8, we will only agree to: "The Plaintiffs presently believe that they can meet the Court-ordered fact discovery cutoff of October 31, 2006." Nothing additional.

-----Original Message-----

From: Barry Taus [mailto:BTAUS@garwingerstein.com]

Sent: Tuesday, August 15, 2006 12:21 PM

To: Peterman, Chad J. (x2877); Anne Fornecker; Casey Murphy; David Nalven; Stuart Des Roches; Adelaida Ferchmin; Lukens, Joseph T.; Scott Perwin; Lauren Ravkind; pcafferty@millerfaucher.com; John Turner; Christopher McDonald; Ted Lieverman; Michael Gottsch; Ken Zylstra; Matthew Hendrickson

Subject: RE: Tricor

Chad- isn't the very purpose of the status report to keep the Court informed of the status of things such as discovery, and whether the Court's deadlines can be met? I don't understand your objection to including the simple discussion that we have in the draft status report.

-----Original Message-----

From: Peterman, Chad J. (x2877) [mailto:cjpeterman@pbwt.com]

Sent: Tuesday, August 15, 2006 12:17 PM

To: Anne Fornecker; Casey Murphy; David Nalven; Stuart Des Roches; Adelaida Ferchmin; Lukens, Joseph T.; Scott Perwin; Barry Taus; Lauren Ravkind; pcafferty@millerfaucher.com; John Turner; Christopher McDonald; Ted Lieverman; Michael Gottsch; Ken Zylstra; Matthew Hendrickson

Subject: RE: Tricor

Anne -

Paragraph 8 should come out entirely, as it is not relevant to the status report. To the extent that plaintiffs have issues about discovery, it should be handled pursuant to the court's procedure for resolving disputes.

Regards,
Chad

-----Original Message-----

From: Anne Fornecker [mailto:AFORNECKER@garwingerstein.com]

Sent: Tuesday, August 15, 2006 11:28 AM

To: Peterman, Chad J. (x2877); Casey Murphy; David Nalven; Stuart Des Roches; Adelaida Ferchmin; Lukens, Joseph T.; Scott Perwin; Barry Taus; Lauren Ravkind; pcafferty@millerfaucher.com; John Turner; Christopher McDonald; Ted Lieverman; Michael Gottsch; Ken Zylstra; Matthew Hendrickson

Subject: RE: Tricor

Chad and Matt,

Attached is the latest version of the quarterly report. In the spirit of compromise, we adopted almost all of your suggested changes – with the exception of former paragraph A11 (new paragraph A8). Hopefully, this version will be acceptable and we can have our local counsel file promptly today.

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2006 I electronically filed the foregoing LETTER using CM/ECF, which will send notification of such filing to all registered participants, including:

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I hereby certify that on August 17, 2006 I sent by electronic mail the foregoing document to the following non-registered participants:

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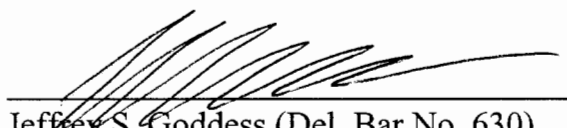
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